

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation into Statements by  
SBC Communications, Inc. and SBC Pacific Bell  
Regarding Potential Reductions to Service  
Quality.

Investigation 02-11-008

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

**I. Summary**

Pursuant to Rules 6(c)(1) and 6.3 of the Commission's Rules of Practice and Procedure,<sup>1</sup> this ruling determines the scope, schedule, need for hearing and the principal hearing officer for this proceeding, following a prehearing conference (PHC) held on February 18, 2003.

**II. Background**

On November 7, 2002, the Commission issued Order Instituting Investigation 02-11-008 (Order). The purpose of the proceeding established by the Order is to determine whether workforce reductions announced by SBC Communications, Inc., (SBC), parent of SBC California,<sup>2</sup> will have any adverse

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<sup>1</sup> Unless otherwise indicated, all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations, and citations to sections refer to the Public Utilities Code.

<sup>2</sup> When the Order was issued, SBC California was known as SBC Pacific Bell.

effect on the quality of service provided by SBC California to its retail and wholesale customers or on SBC California's other obligations as a regulated telecommunications carrier.

The Order required SBC California to respond to detailed questions concerning (1) statements by SBC and SBC California to the effect that the workforce reductions may or will harm service quality, (2) whether the workforce reductions are likely to lead to diminished service quality in California in either the short or long term, and (3) whether the workforce reductions are likely to diminish the ability of SBC California and its affiliates to meet their obligations and furnish timely information to the Commission, including such items as audit information, responses to general information requests, service quality data, and other monitoring reports.

The Order preliminarily determined that the scope of this proceeding is (1) to determine the impact of the announced workforce reductions on the ability of SBC California to serve its retail and wholesale customers and otherwise meet its regulatory obligations and (2) based on such determinations, to take any steps the Commission may find necessary. The Order stated that the final scope of this proceeding would be determined in one or more scoping rulings to be issued by the Assigned Commissioner. The Order further preliminarily determined this to be a "ratesetting" proceeding and that there may be a need for evidentiary hearings.

The Order directed SBC California to provide verified responses to the questions in Attachment A of the Order not later than seven days after issuance of the Order. The Order directed parties to file opening comments on the Order and SBC California's responses to the Attachment A questions no later than 17 days after issuance of the Order, and reply comments no later than 24 days

from the effective date of the Order. The Order invited parties to address whether the Commission should take any steps to protect retail or wholesale service quality and, if so, what those steps should be, as well as whether the Commission should take steps to ensure SBC California meets its other regulatory obligations and, if so, what those steps should be. Parties were directed to include in their opening comments any objections they have regarding (1) the preliminary determination that evidentiary hearings are required and (2) the preliminary scope and timetable for this proceeding.

Verified responses to the questions in Attachment A to the Order were filed by SBC California. Thereafter, opening comments were filed by the Office of Ratepayer Advocates (ORA), SBC California, SBC Advanced Solutions (ASI), AT&T Communications of California Inc. (AT&T), The Utility Reform Network (TURN), and Latino Issues Forum. Reply comments were filed by ORA, SBC California, ASI, AT&T, TURN, Telscape Communications, Inc., and Latino Issues Forum. SBC California also responded to data requests by ORA and the Telecommunications Division of the Commission.

### **III. Respondents**

SBC California and ASI are the respondents in this proceeding.

### **IV. Scope of the Proceeding**

This ruling refines and clarifies the scope of the proceeding in response to the parties' comments. Any issue not identified in the Order or this ruling is outside the scope of the proceeding. As authorized by the Order, the Assigned Commissioner may issue additional rulings that amend and clarify the scope of this proceeding.

The scope of this proceeding is limited to determining what impact the workforce reductions have had or are likely to have on service quality provided by Respondents to their wholesale and retail customers in the State of California. To make this determination, Respondents' quality of service to their wholesale and retail customers will be assessed for the period beginning January 1, 2001 and ending December 31, 2002 (Baseline Period). Service quality for the Baseline Period will then be compared with service quality from January 1, 2003 through December 31, 2004 (Test Period).

### **Service Quality to Retail Customers**

The following service quality measures and data sources will be used to test changes in service quality to retail customers for both the Baseline Period and the Test Period:

<b><u>Service Quality Measure</u></b>	<b><u>Data Source</u></b>
<b>Installation</b>	
Percent orders completed within 5 days	MCOT Reports
Percent orders completed by due date	GO133B Reports
<b>Trouble Report Performance</b>	
Number of trouble reports/100 lines	GO133B Reports
Number of repeat trouble reports/100 lines	MCOT Reports
Number of out-of-service reports/100 lines	MCOT Reports
Percent repair commitments met	MCOT Reports
Percent services restored within 24 hours	MCOT Reports
<b>Answer Time Performance</b>	
Average answer time (seconds)	GO133B Reports
Percent Calls Abandoned	MCOT Reports
Percent Calls Receiving Busy Signals	Respondents' Files
<b>Outages</b>	
Number of Outages Reported/Month	NRF Monitoring Reports
Average Outage Duration	NRF Monitoring Reports

**Other**

Customer Complaints	CPUC
Customer Service Surveys	CPUC

Respondents shall provide all Baseline Period data and initial Test Period data to all other parties no later than June 30, 2003. Except for initial Test Period data, which shall cover the period January 1, 2003 through May 31, 2003, Respondents shall provide Test Period data to all other parties on a monthly basis, no later than the 15<sup>th</sup> day of the month following the month the data represent. Respondents may require that parties other than the Commission sign nondisclosure agreements with respect to material nonpublic information provided in compliance with this ruling.

**Service Quality to Wholesale Customers**

The Commission has recently adopted a performance incentives plan (PIP) to assure that SBC provides parity service to its wholesale customers.<sup>3</sup> The PIP includes a detailed set of performance metrics developed through extensive collaborative meetings. SBC will incur a substantial financial burden if it fails to meet its parity obligations under the PIP. Rather than layer an additional set of performance requirements on top of those contained in the PIP, the effect of layoffs on service to wholesale customers will be measured by reference to the existing reports required of SBC by the PIP. As part of this proceeding, SBC shall furnish all other parties and the presiding ALJ with copies of its PIP reports simultaneously with their delivery to the Commission. Parties may apply to the presiding ALJ to enlarge the scope of review of SBC's performance vis-à-vis its

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<sup>3</sup> Decision 02-03-023.

wholesale customers based on negative service quality trends shown in the PIP reports. Any such application shall be in the form of a noticed motion and shall state the basis of the request for additional review and the nature and extent of any additional review requested.

**Additional Information**

In addition to the above information, Respondents shall supply all parties as soon as practicable with

- (1) a list of jobs, including job titles and descriptions, that have been or will be eliminated as part of the workforce reductions that provided support to Respondents' California operations, together with a head count of employees laid off for each such job category;
- (2) a list of jobs, including job titles and descriptions, that have been or will be eliminated by its affiliate SBC Services, Inc. as part of the workforce reductions, together with a head count of employees laid off for each such job category; and
- (3) the total number of monthly overtime hours worked by Respondents' California employees engaged in providing customer service for each month from January 1, 2002 through March 31, 2003. For the purpose of this paragraph, "employees engaged in providing customer service" means employees who install, maintain, or repair telephone poles, lines or equipment necessary to the delivery of telephone service, together with employees who respond to customer requests for installation, repair or billing services.

If the Commission determines that there has been a significant negative effect on service quality as a result of the workforce reductions, the scope of this investigation will be broadened to include consideration of remedial measures including, but not limited to, restoration of pre-layoff service quality levels within a Commission-ordered timeframe, monetary penalties and such other relief as the Commission may deem appropriate.

## **V. Discovery**

Discovery requests should be limited to items reasonably calculated to lead to the discovery of admissible evidence. For the purpose of this memorandum, “admissible evidence” means evidence generally admissible under the CPUC Rules of Practice and Procedure, including, but not limited to, relevant evidence. “Relevant evidence” means evidence tending to prove or disprove a causal relationship between the workforce reductions and changes in service quality. If a party reasonably believes that a discovery request seeks an item that is not reasonably calculated to lead to the discovery of admissible evidence, the request may be objected to on those grounds. Upon being advised that the party to whom a discovery request is addressed has objected to it, the party seeking discovery shall meet and confer with the objecting party. If the parties are unable to resolve the dispute after meeting and conferring, either party may immediately request a ruling from the law and motion judge. To the maximum extent possible, multiple objections should be included in a single ruling request.

Generic objections to discovery requests are discouraged. Parties are expected to act in good faith when formulating or responding to discovery requests.

All discovery requests and responses shall be served, and all discovery motions heard, not less than thirty (30) days prior to the commencement of evidentiary hearings.

## **VI. Category of Proceeding and Need for Hearing**

Pursuant to Rule 6.1, we determine that the category of this proceeding is “ratesetting” as that term is defined in Rule 5(c) and that there is a need for

evidentiary hearings. In light of Respondents' public statements and statements to this Commission and their subsequent contradictory statements in filings in this proceeding and in the prehearing conference, evidentiary hearings are necessary to determine whether the workforce reductions will result in degradation of service quality to Respondents' wholesale and retail customers. While Respondents have represented that all relevant evidence may be obtained through discovery requests, we believe that evaluation of that evidence and its probative value can only be accomplished through evidentiary hearings. In particular, evidentiary hearings are necessary to provide other parties with the opportunity to cross-examine Respondents regarding the data produced in response to discovery requests.

#### **VII. Principal Hearing Officer**

Administrative Law Judge Karl J. Bemesderfer is designated as the principal hearing officer.

#### **VIII. Schedule**

Although a complete picture of the effects of the layoffs on service quality may not be available until sometime after the end of the Test Period, the presiding ALJ shall monitor trends in the service quality measures throughout the entire Test Period. Either on its own motion or on the motion of a party, the Commission may hold interim hearings from time to time during the Test Period. If substantial evidence is presented at such an interim hearing showing that service quality has declined during the prior calendar quarter, as compared with the average service quality in the comparable quarters during the Baseline Period, the Commission may take such remedial steps in connection therewith as may be necessary or appropriate to reverse the decline.

Evidentiary hearings will be held in or about June 2005, or at such earlier date as the Assigned Commissioner shall direct by a written notice to the parties given not less than sixty (60) days in advance of the hearing date.

#### **IX. Ex Parte Communications**

This proceeding is subject to Rule 7, which specifies standards for engaging in ex parte communications and the reporting of such communications. Pursuant to Rule 7(a)(3), ex parte communications will be allowed in this proceeding consistent with the restrictions and reporting requirements set forth in Rules 7(c) and 7.1. The restrictions and reporting requirements in Rules 7(c) and 7.1 shall remain in effect unless and until the ratesetting categorization for this proceeding is modified by the Commission pursuant to Rule 6.4.

#### **X. Electronic Service**

Any Appearance that provides an e-mail address shall serve and receive all pleadings by e-mail in Microsoft Word format. There is no need to serve hard copies of pleadings on any party listed in the Appearance and State Service categories of the service list if that party has provided an e-mail address. However, if a party in either the Appearance or State Service category has not provided an e-mail address, then that party must be served with a hard copy.

#### **IT IS RULED** that:

1. SBC California and SBC Advanced Solutions, Inc. are the respondents to this proceeding.
  2. The scope of this proceeding is as described in the text of this order.
  3. The schedule for the conduct of this proceeding is as set forth in this order.
- The Assigned Commissioner and the assigned Administrative Law Judge shall

augment the schedule as necessary and may revise the schedule as they determine to be appropriate.

4. The category of this investigation is determined to be “ratesetting” as this term is defined in Rule 5(c) of the Commission’s Rules of Practice and Procedure.

5. Evidentiary hearings will be held on the schedule set forth in this order.

6. Discovery will be in accordance with Paragraph VI of this order.

7. Any party listed in the “Appearance” category on the service that provides an e-mail address shall serve and receive all pleadings by e-mail in Microsoft Word format. There is no need to serve hard copies of pleadings on any party listed in the Appearance and State Service categories of the service list if that party has provided an e-mail address. However, if a party in either the Appearance or State Service category has not provided an e-mail address, then that party must be served with a hard copy.

8. All documents filed at the Commission must be in paper form as described in Rule 2 et seq.

Dated April 10, 2003, at San Francisco, California.

/s/ CARL W. WOOD

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Carl W. Wood  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated April 10, 2003, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.